

### **REMARKS**

This paper includes a complete and timely response to the non-final Office Action mailed February 12, 2004 (Paper No. 3). Upon entry of the attached amendments, claims 1-3, 5, 6, 8-14, and 20-27 remain pending. Claims 1-3, 5, 6, 8, 11, and 20 have been amended. Claims 4, 7, and 15-19 have been canceled without prejudice, waiver, or disclaimer. Claims 21-27 have been added. The subject matter in amended claims 1-3, 5, 6, 8-14, and 20-27, and new claims 21-27 is included in FIGs. 4-9C and described in the corresponding portions of the detailed description. Consequently, no new matter is added to the present application.

Applicants respectfully submit that the now pending claims 1-3, 5, 6, 8-14, and 20-27 are patentable over the cited art of record. Accordingly, reconsideration and allowance of the application and presently pending claims are respectfully requested.

Each rejection presented in the non-final Office Action mailed February 12, 2004 is discussed in the following remarks.

Applicant notes that originally submitted claim 11 has not been rejected in the Office Action. Thus, any rejection of claim 11, if issued in a subsequent Office Action, should be made in a non-final Office Action as a rejection of claim 11 will necessitate a new ground(s) of rejection.

#### **I. Elections / Restrictions**

##### **A. Statement of Restriction**

The Office Action indicates that restriction to one of the following inventions is required under 35 U.S.C. § 121: Group I - Claims 1-14, and 20, drawn to a connector device, classified in class 604, subclass 403; and Group II – Claims 15-19, drawn to a method of connecting tube lines, classified in class 604, subclass 403. The inventions are distinct from each other because the process fails to claim the particulars of the claimed apparatus, allegedly indicating that the process may be performed using a different apparatus.

##### **B. Discussion of the Election**

Applicant acknowledges election of claims 1-14 and 20 in the present application. Applicant further acknowledges that claims 15-19 have been canceled and are withdrawn from further consideration by the Office.

## II. Claim Rejections under 35 U.S.C. §102 - Claims 1-10, 12, 14, and 20.

### A. Statement of the Rejection

Claims 1-10, 12, 14, and 20 presently stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Shoor (U.S. Patent No. 4,266,106), hereafter “*Shoor*.”

### B. Discussion of the Rejection - Claims 1-10, 12, 14, and 20

Applicant has canceled claims 4 and 7. Consequently, the rejection of claims 4 and 7 is rendered moot.

Applicant respectfully submits that claims 1-3, 5, 6, 8, and 11-14, and 20, as amended, are patentable for at least the reason that the cited reference fails to disclose, teach, or suggest each limitation in the amended claims.

It is well established that “anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 Fed 2d 1540, 220 U.S.P.Q. 303, 313 (Fed Cir 1983). The cited reference fails to meet the requirement of a single prior art reference that discloses, teaches, or suggests each feature of the claimed invention.

#### 1. Claims 1-3, 5, 6, 8, and 11-14

Claim 1 is exemplary. For convenience of analysis, Applicant’s independent claim 1, as amended, is repeated below in its entirety.

1. A connector sleeve, comprising:  
means for encompassing a portion of a tubing assembly junction having a first end proximal to a first end of the sleeve and a portion of a first tube proximal to the first end of the tubing assembly junction, the *means for encompassing a portion of the tubing assembly junction that enables observation of the tubing assembly junction within the length of the sleeve while securing the first tube to the tubing assembly junction*; and  
means for encompassing a portion of a second tube proximal to a second end of the tubing assembly junction, the *means for encompassing a portion of the second tube enabling observation of the second tube within the length of the sleeve while securing the second tube to the tubing assembly junction*.

(Applicants’ amended independent claim 1 - *emphasis added*.)

The cited art of record fails to disclose, teach, or suggest at least the emphasized elements of pending claim 1 as shown above. Consequently, claim 1 is allowable.

Specifically, Figs. 1A - 1C, 2A, 2B, and 3 of *Shoor* apparently illustrate a multiple part resealable device (10) that totally surrounds a first tube (18), a second tube (44), and a tubing junction (20a). Each of the Figs. 1A-1C, 2A, 2B, and 3 illustrate *Shoor*'s resealable device using cross-sectional views to reveal interior structures of the device. Thus, each of the multiple parts forming the resealable device entirely surround / form the tubing junction (20a) and cannot permit external observation of the tubing assembly junction. Accordingly, *Shoor* does not disclose, teach, or suggest Applicant's claimed connector sleeve.

Applicant reaches this conclusion for at least the reason that *Shoor* does not disclose, teach, or suggest Applicant's claimed ***"means for encompassing a portion of the tubing assembly junction that enables observation of the tubing assembly junction within the length of the sleeve while securing the first tube to the tubing assembly junction."*** A multi-part resealable device that entirely surrounds a tubing junction cannot disclose, teach, or suggest a means for encompassing a tubing assembly junction that enables observation of the tubing assembly junction within the length of the sleeve while securing the first tube to the tubing assembly junction. Thus, for at least the reason that *Shoor* fails to disclose, teach, or suggest the above-emphasized element, *Shoor* cannot anticipate Applicant's claim 1. Accordingly, claim 1 is allowable and the rejection should be withdrawn.

Furthermore, *Shoor* fails to disclose, teach, or suggest at least Applicant's claimed ***"means for encompassing a portion of the second tube enabling observation of the second tube within the length of the sleeve while securing the second tube to the tubing assembly junction."*** A multi-part resealable device that entirely surrounds a tubing junction and those portions of a first and a second tube proximal to the junction cannot disclose, teach, or suggest a means for encompassing a portion of the second tube enabling observation of the second tube within the length of the sleeve while securing the second tube to the tubing assembly junction. Thus, for at least the additional reason that *Shoor* fails to disclose, teach, or suggest the above-emphasized element, *Shoor* cannot anticipate Applicant's claim 1. Accordingly, claim 1 is allowable and the rejection should be withdrawn.

Because independent claim 1 is allowable, dependent claims 2, 3, 5, 6, and 8-14, which depend either directly or indirectly from claim 1, are also allowable. *See In re Fine*, 837, F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Accordingly, Applicants respectfully request that the rejection of claims 1-3, 5, 6, and 8-14 be withdrawn.

## 2. Claim 20

Claim 20 is also exemplary. For convenience of analysis, Applicant's independent claim 20, as amended, is repeated below in its entirety.

20. A connector sleeve, comprising:  
a housing comprising:  
***a first portion that includes an aperture along the longitudinal axis of the sleeve and a restrictor that intrudes from the housing***, the first portion configured to encompass a portion of a tubing assembly junction and contact a first end of the tubing assembly junction; and  
***a second portion that includes a slot along the longitudinal axis of the sleeve and a tapered inner surface***, the second portion configured to closely surround and contact a second end of the tubing assembly junction.

(Applicants' amended independent claim 20 - *emphasis added*.)

The cited art of record fails to disclose, teach, or suggest at least the emphasized elements of pending claim 20 as shown above. Consequently, claim 20 is allowable.

As described above regarding the patentability of Applicant's claim 1, Figs. 1A-1C, 2A, 2B, and 3 of *Shoor* apparently illustrate a multiple part resealable device (10) that totally surrounds a first tube (18), a second tube (44), and a tubing junction (20a). Each of the Figs. 1A-1C, 2A, 2B, and 3 illustrate *Shoor's* resealable device using cross-sectional views to reveal interior structures of the device. Thus, each of the multiple parts forming the resealable device entirely surround / form the tubing junction (20a) and do not include an aperture along the longitudinal axis of the device. Accordingly, *Shoor* does not disclose, teach, or suggest Applicant's claimed connector sleeve.

Applicant reaches this conclusion for at least the reason that *Shoor* does not disclose, teach, or suggest Applicant's claimed "***first portion that includes an aperture along the longitudinal axis of the sleeve and a restrictor that intrudes from the housing***." A multi-part

resealable device that entirely surrounds a tubing junction cannot disclose, teach, or suggest a housing having a first portion that includes an aperture along the longitudinal axis of the sleeve. Thus, for at least the reason that *Shoor* fails to disclose, teach, or suggest the above-emphasized element, *Shoor* cannot anticipate Applicant's claim 20. Accordingly, claim 20 is allowable and the rejection should be withdrawn.

Furthermore, *Shoor* fails to disclose, teach, or suggest at least Applicant's claimed ***"second portion that includes a slot along the longitudinal axis of the sleeve and a tapered inner surface."*** A multi-part resealable device that entirely surrounds a tubing junction cannot disclose, teach, or suggest a second portion that includes a slot along the longitudinal axis of the sleeve and a tapered inner surface. Thus, for at least the additional reason that *Shoor* fails to disclose, teach, or suggest the above-emphasized element, *Shoor* cannot anticipate Applicant's claim 20. Accordingly, claim 20 is allowable and the rejection of claim 20 should be withdrawn.

### **III. Claim Rejection under 35 U.S.C. §103(a) – Claim 13**

#### **A. Statement of the Rejection**

The Office Action indicates that claim 13 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Shoor* in view of U.S. Patent 5,437,648 to Graves *et al.*, hereafter "*Graves*." Concerning claim 13, the Office Action alleges that *Shoor* discloses the apparatus as claimed with the exception that the size of the slot being smaller than the diameter of the tube therein. The Office Action alleges that *Graves* discloses a connector with a latch 62. The latch 62 includes a slot 72 with a collar 46 that receives tubing. The width of the slot is smaller than the collar, thereby locking the tube into place. The Office Action then concludes that one of ordinary skill in the art at the time of the invention would create a slot of an appropriate diameter to retain tubing to prevent connected sections from becoming accidentally disengaged.

## B. Discussion of the Rejection – Claim 13

Applicants respectfully submit that claim 13 is patentable for at least the reason that the proposed combination of *Shoor* and *Graves* fails to disclose, teach, or suggest each limitation in the claim.

In order for a claim to be properly rejected under 35 U.S.C. §103, the combined teachings of the prior art references must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). The proposed combination fails to suggest all features of the claimed invention.

Claim 13 depends indirectly from Applicant's independent claim 1. Claim 1 includes ***“means for encompassing a portion of the second tube enabling observation of the second tube within the length of the sleeve while securing the second tube to the tubing assembly junction.”*** As shown above, *Shoor*'s multi-part resealable device that entirely surrounds a tubing junction and those portions of a first and a second tube proximal to the junction cannot disclose, teach, or suggest a means for encompassing a portion of the second tube enabling observation of the second tube within the length of the sleeve while securing the second tube to the tubing assembly junction.

The latch apparently disclosed in *Graves* does not remedy the failure of *Shoor* to disclose, teach, or suggest all limitations in the claims. *Graves* apparently discloses a lockable safety assembly for protecting a hyperdermic needle in an intravenous set. *Graves*' latch 62 does not permit observation of the second tube within the length of the sleeve (latch) while securing the second tube to the tubing assembly junction. Thus, the proposed combination of *Shoor* and *Graves* fails to disclose, teach, or suggest at least the above-emphasized element. Accordingly, claim 13, which depends indirectly from claim 1, is allowable and the rejection of claim 13 should be withdrawn.

#### **IV. Patentability of New Claims 21-27**

New claims 21-27 are patentable over the cited art of record for at least the reason that the references alone or in combination fail to disclose, teach, or suggest at least a housing including “a second portion that includes a slot along the longitudinal axis of the sleeve and a tapered inner surface.”

#### **V. Prior Art Made of Record**


The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

#### **CONCLUSION**

In summary, Applicant respectfully requests that all outstanding claim rejections be withdrawn. Applicant respectfully submits that all pending claims 1-3, 5, 6, 8-14, and 20-27 are allowable over the cited art and the present application is in condition for allowance. Accordingly, a Notice of Allowance is respectfully solicited. Should the Examiner have any comment regarding the Applicant’s response or believe that a teleconference would expedite prosecution of the pending claims, Applicant requests that the Examiner telephone Applicant’s undersigned attorney.

Respectfully submitted,

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**

By:   
Robert A. Blaha  
Registration No. 43,502

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**  
100 Galleria Parkway, Suite 1750  
Atlanta, Georgia 30339-5948  
(770) 933-9500